

AMENDED IN ASSEMBLY AUGUST 21, 2006

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN ASSEMBLY JUNE 28, 2006

AMENDED IN ASSEMBLY JUNE 8, 2006

AMENDED IN ASSEMBLY JUNE 22, 2005

AMENDED IN SENATE APRIL 28, 2005

AMENDED IN SENATE APRIL 20, 2005

SENATE BILL

No. 187

Introduced by Senator Soto

February 10, 2005

An act to amend Section 116365 of, and to add Section 116365.3 to, the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

SB 187, as amended, Soto. Drinking water: contaminants.

The California Safe Drinking Water Act requires the State Department of Health Services to adopt primary drinking water standards for contaminants in drinking water and prohibits those standards from being less stringent than the national primary drinking water standards adopted by the United States Environmental Protection Agency. The act requires the Office of Environmental Health Hazard Assessment to prepare and publish an assessment of the risks to public health posed by each contaminant for which the department proposes a primary drinking water standard.

The act requires the department to consider specified criteria when it adopts a primary drinking water standard including the public health

goal for the contaminant published by the Office of Environmental Health Hazard Assessment, the national primary drinking water standard, if any, adopted by the United States Environmental Protection Agency, and the technological and economic feasibility of compliance with the proposed drinking water standard. Existing law requires the department, for purposes of determining economic feasibility, to consider the costs of compliance to public water systems, customers, and other affected parties with the proposed standard, including the cost per customer and aggregate cost of compliance, using best available technology.

This bill would ~~require~~ *authorize* the department to consider, to the extent information is available, in determining economic feasibility, ~~the likely number of deaths, illnesses, and disabilities~~ *potential affects on human health* that may result from the adoption of a primary drinking water standard that is less stringent than the public health goal, ~~utilizing the risk characterization contained in the risk assessment prepared by the office pursuant to existing law.~~

~~This bill would also require the department to include in its calculation, to the extent information is available, the estimated cost of medical care, reproductive harm, lost days of work, support of dependents, and reduction in earning capacity that may result from exposure to the contaminant in question. This bill would permit the department to use published tables relied upon by the insurance industry to calculate these costs.~~

This bill would also require the department's analysis of technological and economic feasibility to be made available to the public along with the draft regulation for review and comment, and would require the department and Office of Environmental Health Hazard Assessment to make available to the public any documentation used to adopt primary drinking water standards or public health goals.

This bill would authorize the department or office to review and consider the primary drinking water standards and public health goals adopted by other states, provided those standards and levels are not less stringent than existing state law.

This bill would further require the department, if it fails to issue a primary drinking water standard by a deadline imposed by state law, to issue quarterly reports to the Legislature that explain the reasons for the delay and a summary of work activities.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 116365 of the Health and Safety Code is amended to read:

116365. (a) The department shall adopt primary drinking water standards for contaminants in drinking water that are based upon the criteria set forth in subdivision (b) and shall not be less stringent than the national primary drinking water standards adopted by the United States Environmental Protection Agency. Each primary drinking water standard adopted by the department shall be set at a level that is as close as feasible to the corresponding public health goal placing primary emphasis on the protection of public health, and that, to the extent technologically and economically feasible, meets all of the following:

(1) With respect to acutely toxic substances, avoids any known or anticipated adverse effects on public health with an adequate margin of safety.

(2) With respect to carcinogens, or any substances that may cause chronic disease, avoids any significant risk to public health.

(b) The department shall consider all of the following criteria when it adopts a primary drinking water standard:

(1) The public health goal for the contaminant published by the Office of Environmental Health Hazard Assessment pursuant to subdivision (c).

(2) The national primary drinking water standard for the contaminant, if any, adopted by the United States Environmental Protection Agency.

(3) The technological and economic feasibility of compliance with the proposed primary drinking water standard. For the purposes of determining economic feasibility pursuant to this paragraph, the department shall consider the costs of compliance to public water systems, customers, and other affected parties with the proposed primary drinking water standard, including the cost per customer and aggregate cost of compliance, using best available technology. The department ~~shall~~ *may* also consider, to the extent information is available, as a part of the determination of economic feasibility, ~~the likely number of deaths, illnesses, or disabilities~~ *potential affects on human health* that may result

1 from the adoption of a primary drinking water standard that is
2 less stringent than the public health goal, utilizing the risk
3 characterization contained in the risk analysis prepared by the
4 Office of Environmental Health Hazard Assessment. The
5 department shall calculate, to the extent information is available,
6 the estimated cost for medical care; reproductive harm, which
7 includes alterations to reproductive organs or the endocrine
8 system and effects on pregnancy outcomes; lost days of work;
9 support of dependants; and reduction of earning capacity that
10 may result from exposure to the contaminant in question. The
11 department may utilize published tables relied upon by the
12 insurance industry to calculate these costs goal. The department's
13 analysis of technological and economic feasibility shall be made
14 available to the public along with the draft regulation for review
15 and comment.

16 (c) (1) The Office of Environmental Health Hazard
17 Assessment shall prepare and publish an assessment of the risks
18 to public health posed by each contaminant for which the
19 department proposes a primary drinking water standard. The risk
20 assessment shall be prepared using the most current principles,
21 practices, and methods used by public health professionals who
22 are experienced practitioners in the fields of epidemiology, risk
23 assessment, and toxicology. The risk assessment shall contain an
24 estimate of the level of the contaminant in drinking water that is
25 not anticipated to cause or contribute to adverse health effects, or
26 that does not pose any significant risk to health. This level shall
27 be known as the public health goal for the contaminant. The
28 public health goal shall be based exclusively on public health
29 considerations and shall be set in accordance with all of the
30 following:

31 (A) If the contaminant is an acutely toxic substance, the public
32 health goal shall be set at the level at which no known or
33 anticipated adverse effects on health occur, with an adequate
34 margin of safety.

35 (B) If the contaminant is a carcinogen or other substance that
36 may cause chronic disease, the public health goal shall be set at
37 the level that, based upon currently available data, does not pose
38 any significant risk to health.

39 (C) To the extent information is available, the public health
40 goal shall take into account each of the following factors:

1 (i) Synergistic effects resulting from exposure to, or
2 interaction between, the contaminant and one or more other
3 substances or contaminants.

4 (ii) Adverse health effects the contaminant has on members of
5 subgroups that comprise a meaningful portion of the general
6 population, including, but not limited to, infants, children,
7 pregnant women, the elderly, individuals with a history of serious
8 illness, or other subgroups that are identifiable as being at greater
9 risk of adverse health effects than the general population when
10 exposed to the contaminant in drinking water.

11 (iii) The relationship between exposure to the contaminant and
12 increased body burden and the degree to which increased body
13 burden levels alter physiological function or structure in a
14 manner that may significantly increase the risk of illness.

15 (iv) The additive effect of exposure to the contaminant in
16 media other than drinking water, including, but not limited to,
17 exposures to the contaminant in food, and in ambient and indoor
18 air, and the degree to which these exposures may contribute to
19 the overall body burden of the contaminant.

20 (D) If the Office of Environmental Health Hazard Assessment
21 finds that currently available scientific data are insufficient to
22 determine the level of a contaminant at which no known or
23 anticipated adverse effects on health will occur, with an adequate
24 margin of safety, or the level that poses no significant risk to
25 public health, the public health goal shall be set at a level that is
26 protective of public health, with an adequate margin of safety.
27 This level shall be based exclusively on health considerations and
28 shall, to the extent scientific data are available, take into account
29 the factors set forth in clauses (i) to (iv), inclusive, of
30 subparagraph (C), and shall be based on the most current
31 principles, practices, and methods used by public health
32 professionals who are experienced practitioners in the fields of
33 epidemiology, risk assessment, and toxicology. However, if
34 adequate scientific evidence demonstrates that a safe dose
35 response threshold for a contaminant exists, then the public
36 health goal should be set at that threshold. The department may
37 set the public health goal at zero if necessary to satisfy the
38 requirements of this subparagraph.

39 (2) The determination of the toxicological endpoints of a
40 contaminant and the publication of its public health goal in a risk

1 assessment prepared by the Office of Environmental Health
2 Hazard Assessment are not subject to the requirements of
3 Chapter 3.5 (commencing with Section 11340) of Part 1 of
4 Division 3 of Title 2 of the Government Code. The Office of
5 Environmental Health Hazard Assessment and the department
6 shall not impose any mandate on a public water system that
7 requires the public water system to comply with a public health
8 goal. The Legislature finds and declares that the addition of this
9 paragraph by the act amending this section during the 1999–2000
10 Regular Session of the Legislature is declaratory of existing law.

11 (3) (A) Beginning July 1, 2001, the Office of Environmental
12 Health Hazard Assessment shall, at the time it commences
13 preparation of a risk assessment for a contaminant as required by
14 this subdivision, electronically post on its Internet Web page a
15 notice that informs interested persons that it has initiated work on
16 the risk assessment. The notice shall also include a brief
17 description, or a bibliography, of the technical documents or
18 other information the office has identified to date as relevant to
19 the preparation of the risk assessment and inform persons who
20 wish to submit information concerning the contaminant that is
21 the subject of the risk assessment of the name and address of the
22 person in the office to whom the information may be sent, the
23 date by which the information must be received in order for the
24 office to consider it in the preparation of the risk assessment, and
25 that all information submitted will be made available to any
26 member of the public who requests it, as required by the
27 California Public Records Act (Chapter 3.5 (commencing with
28 Section 6250) of Division 7 of Title 1 of the Government Code).
29 Until July 1, 2001, the Office of Environmental Health Hazard
30 Assessment shall send the notice to interested persons who
31 request it by mail.

32 (B) Each draft risk assessment prepared by the Office of
33 Environmental Health Hazard Assessment pursuant to this
34 subdivision shall be made available to the public at least 45
35 calendar days prior to the date that public comment and
36 discussion on the risk assessment are solicited at the public
37 workshop required by Section 57003.

38 (C) (i) At the time the Office of Environmental Health Hazard
39 Assessment publishes the final risk assessment for a contaminant,
40 the office shall respond in writing to significant comments, data,

1 studies, or other written information submitted by interested
2 persons to the office in connection with the preparation of the
3 risk assessment. Any such comments, data, studies, or other
4 written information submitted to the office shall be made
5 available to any member of the public who requests it.

6 (ii) The department and the Office of Environmental Health
7 Hazard Assessment shall make available any documentation used
8 to adopt the primary drinking water standard or public health goal
9 to any member of the public who requests it, as required by the
10 California Public Records Act (Chapter 3.5 (commencing with
11 Section 6250) of Division 7 of Title 1 of the Government Code).

12 (D) Any interested person may, within 15 calendar days of the
13 date the public workshop on a risk assessment is completed
14 pursuant to Section 57003, request the Office of Environmental
15 Health Hazard Assessment to submit the risk assessment to
16 external scientific peer review prior to its publication. If the
17 office receives such a request, the office shall submit the risk
18 assessment to external scientific peer review in a manner
19 substantially equivalent to the external scientific peer review
20 process set forth in Section 57004, if the person requesting the
21 external scientific peer review enters into an enforceable
22 agreement with the office within 15 calendar days of making the
23 request that requires the person requesting the external scientific
24 peer review to fully reimburse the office for all of the costs
25 associated with conducting the external scientific peer review.

26 (E) It is the intent of the Legislature that, if the Office of
27 Environmental Health Hazard Assessment receives a request to
28 submit a risk assessment prepared for a contaminant to which
29 paragraph (2) of subdivision (e) applies to external scientific
30 review, the peer review shall be conducted in a manner that does
31 not affect the schedule for publishing the public health goal for
32 that contaminant as set forth in paragraph (2) of subdivision (e).

33 (d) Notwithstanding any other provision of this section, any
34 maximum contaminant level in effect on August 22, 1995, may
35 be amended by the department to make the level more stringent
36 pursuant to this section. However, the department may only
37 amend a maximum contaminant level to make it less stringent if
38 the department shows clear and convincing evidence that the
39 maximum contaminant level should be made less stringent and
40 the amendment is made consistent with this section.

(e) (1) All public health goals published by the Office of Environmental Health Hazard Assessment shall be established in accordance with the requirements of subdivision (c) and shall be reviewed at least once every five years, and revised, pursuant to subdivision (c), as necessary based upon the availability of new scientific data.

(2) On or before January 1, 1998, the Office of Environmental Health Hazard Assessment shall publish a public health goal for at least 25 drinking water contaminants for which a primary drinking water standard has been adopted by the department. The office shall publish a public health goal for 25 additional drinking water contaminants by January 1, 1999, and for all remaining drinking water contaminants for which a primary drinking water standard has been adopted by the department by no later than December 31, 2001. A public health goal shall be published by the Office of Environmental Health Hazard Assessment at the same time the department proposes the adoption of a primary drinking water standard for any newly regulated contaminant.

(f) The department or Office of Environmental Health Hazard Assessment may review, and adopt by reference, any information prepared by, or on behalf of, the United States Environmental Protection Agency for the purpose of adopting a national primary drinking water standard or maximum contaminant level goal when it establishes a California maximum contaminant level or publishes a public health goal.

(g) At least once every five years after adoption of a primary drinking water standard, the department shall review the primary drinking water standard and shall, consistent with the criteria set forth in subdivisions (a) and (b), amend any standard if any of the following occur:

(1) Changes in technology or treatment techniques that permit a materially greater protection of public health or attainment of the public health goal.

(2) New scientific evidence that indicates that the substance may present a materially different risk to public health than was previously determined.

(h) The department or the Office of Environmental Health Hazard Assessment may review and consider the primary drinking water standards and public health goals adopted by

1 other states, provided those standards and goals are not less
2 stringent than existing state law.

3 (i) Not later than March 1 of every year, the department shall
4 provide public notice of each primary drinking water standard it
5 proposes to review in that year pursuant to this section.
6 Thereafter, the department shall solicit and consider public
7 comment and hold one or more public hearings regarding its
8 proposal to either amend or maintain an existing standard. With
9 adequate public notice, the department may review additional
10 contaminants not covered by the March 1 notice.

11 (j) This section shall operate prospectively to govern the
12 adoption of new or revised primary drinking water standards and
13 does not require the repeal or readoption of primary drinking
14 water standards in effect immediately preceding January 1, 1997.

15 (k) The department may, by regulation, require the use of a
16 specified treatment technique in lieu of establishing a maximum
17 contaminant level for a contaminant if the department determines
18 that it is not economically or technologically feasible to ascertain
19 the level of the contaminant.

20 SEC. 2. Section 116365.3 is added to the Health and Safety
21 Code, to read:

22 116365.3. If the department does not issue a primary drinking
23 water standard by a deadline set by state law, the department
24 shall issue quarterly reports to the Legislature that explain the
25 reasons for the delay and provide a summary of work activities.